

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH KIRKLAND,

Defendant.

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Case No. 07-CR-30137-MJR

ORDER

REAGAN, District Judge:

On April 21, 2008, Kirkland filed motion in limine #2 (Doc. 53). Kirkland seeks to preclude: 1) evidence that bullets were found in his car, 2) references to his prior conviction that are audible on the video tape of the traffic stop, and 3) evidence that he was initially arrested for unlawfully possessing ammunition. The defense advances relevancy and probative value versus prejudicial effect arguments in support of the motion.

The Government responds that guns are “tools of the trade” for drug traffickers, so bullets are too. Additionally the Government believes Kirkland’s prior arrest record is “inextricably intertwined” with the actions of law enforcement and tells the “whole story for the Jury.”

As the case is now postured, the Court grants the motion due to the anemic probative value of the evidence when contrasted with its prejudicial effect. *See* **FEDERAL RULE OF EVIDENCE 403**. The Court notes that its ruling would have been different if it was dealing with a gun rather than just bullets, or if Kirkland had been charged as a felon in possession.

To the extent the Government’s response seeks a ruling on the admissibility of Defendant’s “prior records,” the Court declines the invitation to provide an advisory ruling. If at trial the Government believes the Defendant has opened the door to this line of questioning or there is some other basis for its admission, a sidebar should be sought.

The Court notes this ruling, as all rulings on motions in limine, is provisional and subject to change based upon the testimony at trial.

Accordingly, the Court hereby **GRANTS** Kirkland's Motion in Limine #2 (Doc. 53).

IT IS SO ORDERED.

DATED this 25th day of April 2008.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge